

DOC NO
REC'D/FILEDUNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN2012 SEP 18 AM 11:05
PETER OPPENEER
CLERK US DIST COURT
WD OF WIShawn Robert Bierd (a living man))
Representing COUNTERCLAIMANTS)
ADVANCE AUTO BODY LLC)
AND SHAWN BIERD)

v.)

Civil Action No. 11cv341

IRS, UNITED STATES OF AMERICA,)
ET AL)**MEMORANDUM AND AFFIDAVIT DENYING DEFAULT JUDGEMENT IN
REGARD TO DISCHARGE INSTRUMENTS PREVIOUSLY SENT TO THE IRS**

Counterclaimant Shawn Robert Bierd, herein after Affiant, contends that the purported debt referenced in document #49 "Motion for Entry of Default Judgement Against Shawn Bierd and Advance Auto Body LLC" and supporting documents numbered 50, 51, 51-1, and 51-2 does not exist and that the IRS is in possession of multiple discharge instruments and are claiming my position is "frivolous". As a matter of fact, they are in possession of more than the amounts claiming and refuse to acknowledge this. The discharge of liability is lawful and proper for the following reasons.

1.) THAT the U.S. Bankruptcy is verified in Senate Report No. 93-549 93rd Congress, 1st Session (1973), "Summary of Emergency Power Statutes," Executive Orders 6073, 6102, 6111 and by Executive Order 6260 on March 9, 1933, under the "Trading With The Enemy Act (Sixty-Fifth Congress, Session I, Chapters 105, 106, October 6, 1917), and as further codified at 12 U.S.C.A. 95(a) and (b) as amended, operates upon the Internal Revenue Service.

2.) THAT, any transaction to discharge debt liability is in accordance and compliance with UCC 3-104; Title IV, Sec 401 (FRA); USC Title 12; USC Title 28, §§1631, 3002; and the Foreign Sovereign Immunity Act under necessity, in light of the fact that the several States are in violation of Article I, Section X of the U.S. Constitution.

3.) THAT, the Affiant as the Undersigned Secured Party is "Holder in Due Course" of the Preferred Stock of the federal Corporation (United States – February 21, 1871; 16 Stat I. 419): and holds a prior, superior, security interest and claim on the Debtors named in this action and Debtor's property.

4.) THAT, any documents transmitted on behalf of the Debtor to discharge debt liability on behalf of the Debtor are in full accord with HJR-192 (June 5, 1933), Public Law 73-10, UCC 3-419, 1-104 and 10-104.

5.) THAT, the Affiant is "Holder in Due Course" of the deficient account by his Acceptance and retains first priority; and by said Acceptance of any "Claim(s)" has eliminated any controversy in the matters by exhaustion of the Affiant's private administrative process/remedy under necessity supported by scripture and 'Self Help' via UCC 1-201 (34) per Official Comments - "Remedy" and Affiant is not protesting on behalf of the Debtor.

6.) THAT, the undersigned Affiant has been estopped from using and has no access to 'lawful constitutional money of exchange' (See U.S. Constitution – Art. I § X) to 'PAY DEBTS AT LAW', and pursuant to HJR-192, can only discharge fines, fees, debts, and judgments 'dollar for dollar' via commercial paper or upon his exemption.

7.) THAT, legal tender, under the Uniform Commercial Code (U.C.C.), Section 1-201 (24) (Official Comment); "The referenced Official Comment notes that the definition of money is not limited to legal tender under the U.C.C. The test adopted is that of sanction of government, whether by authorization before issue or adoption afterward, which recognizes the circulating medium as a part of the official currency of the government. The narrow view that money is limited to legal tender is rejected."

8.) THAT, the Federal Reserve Bank of Chicago in its booklet: MODERN MONEY MECHANICS page 3, states; "In the United States neither paper currency [e.g., Federal Reserve Notes] nor deposits have value as commodities. Intrinsically, a dollar bill is just a piece of paper, deposits merely book entries." The acceptance of said "currency" is merely a "confidence" game predicated upon the people's faith or "confidence" that these currencies/instruments can be exchanged/accepted for goods and services.

10.) THAT the "giving a (Federal Reserve) note does not constitute payment." See *Echart v Commissioners C.C.A.*, 42 Fd2d 158.

11.) THAT the use of a (Federal Reserve) Note is only a promise to pay. See *Fidelity Savings v Grimes*, 131 P2d 894.

12.) THAT legal tender (Federal Reserve) Notes are not good and lawful money of the United States. See *Rains v State*, 226 S.W. 189.

13.) THAT (Federal Reserve) Notes do not operate as payment in the absences of an agreement that they shall constitute payment. See *Blachshear Mfg. Co. v Harrell*, 2 S.E. 2d 766.

14.) THAT Federal Reserve Notes are valueless. See IRS Codes Section 1.1001-1 (4657) C.C.H.).

15.) THAT, in light of the holding of Fidelity Bank Guarantee vs. Henwood, 307 U.S. 847 (1939), take notice of ... "As of October 27, 1977, legal tender for discharge of debt is no longer required. That is because legal tender is not in circulation at par with promises to pay credit. There can be no requirement of repayment in legal tender either, since legal tender was not loaned [nor in circulation] and repayment [or payment] need only be made in equivalent kind; A negotiable instrument."

16.) THAT, the various and numerous references to Case Law, Legislative History, State and Federal Statutes/Codes, Federal Reserve Bank Publications, Supreme Court decisions, the Uniform Commercial Code, U.S. Constitution, State Constitutions, and general recognized maxims of Law as cited herein and throughout, establish the following:

(a) That, the U.S. federal government did totally and completely debase the organic lawful constitutional coin of the several states of the Union and of the United States.

(b) That, the federal government and the several united States have, and continue to, breach the express mandates of Article I, §§ 8 & 10 of the federal Constitution regarding the minting and circulation of lawful coin.

(c) That, the lawful coin (i.e. organic medium of exchange) and the former ability to PAY debts – has been replaced with fiat, paper currency, with the limited capacity to only DISCHARGE debts.

(d) That, the Congress of the United States did legislate and provide the American people a remedy/means to discharge all debts "dollar for dollar" via HJR 192 – due to the declared Bankruptcy of the Corporate United States via the abolishment of constitutional coin and currency.

(e) That, the corporate United States, the several states of the Union, intergovernmental organizations, and other nations of the world recognize this current, circulating medium of exchange as commercial paper/instruments, negotiable or non-negotiable, the same being accepted as legal tender or money, etc., as set forth in the Uniform Commercial Code.

(f) That, the Affiant's acceptance of any monetary/debt presentment and/or demand for payment as presented by any person, natural or corporate, can be returned for discharge, the same constituting the negotiable instrument so bearing the exemption of the Affiant upon any said monetary/debt presentment and/or demand for payment as a non-cash accrual item is but another form of legal tender, money, currency emanating from the Creditor.

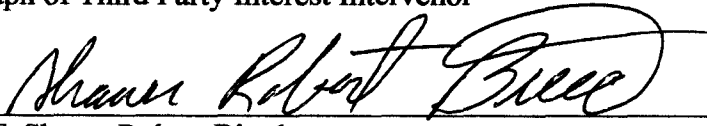
17.) THAT, pursuant to 'State and Federal' TENDER OF PAYMENT statutes; "Whatever is tendered as payment, whether property, money or an instrument, if not accepted, the debt is discharged." The IRS has accepted tender and not discharged or returned them to me.

If this acquisitioning mechanism is denied for any reason, denying Shawn Robert Bierd the right to draw upon his claim and interest in the Gold held by the Treasury of the United States of America and his deficiency payment caused by the WAR AND EMERGENCY ACT (Executive Order(s) 2039 and 2040), under public policy (private law) of the 'New Deal' socialist theft Policy (and others), then this act will be in direct violation of the Constitution for the united States of America, seventeen-hundred and eighty-seven, because involuntary servitude has been abolished, and the undersigned, pursuant to his First Amendment Right, one of those Rights public servants are obligated to protect, to not be compelled to be a part of a corporation, church, communistic State or to make self-sacrifice to a false god also known as the "State". My God is the King of kings and The Lord of lords and requires that I serve him only and not man (The State), This is very clear and not negotiable according to Bible and His Law which is the common law. All man-made "laws" and statutes contrary to His word, the Bible, are "illegal". I am His agent, we have a bond and a contract. I serve him only.

Further Affiant sayeth not.

WITHOUT PREJUDICE, ALL RIGHTS RESERVED

Autograph of Third Party Interest Intervenor

By:  Date 9-17-12
AGENT, Shawn Robert Bierd

CERTIFICATE OF SERVICE

I, Shawn Robert Bierd, attest to this document and others delivered as follows;

Original: to the court At: 120 North Henry Street
Madison, Wisconsin 53703

Copies: Via US mail: MIRANDA BUREAU
TAX DIVISION, CENTRAL REGION
UNITED STATES DEPARTMENT OF JUSTICE
PO BOX 7238
WASHINGTON, DC 20044